IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

RBH ENERGY, LLC,	§	Case No.:
	§	
Plaintiff,	§	
	§	
V.	§	
	§	
HUMANSCALE CORP.,	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff RBH Energy, LLC ("RBH"), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant Humanscale Corporation ("Humanscale"), and requests relief from this Court based on the following:

THE PARTIES

- 1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at 112 N. Bailey Ave. #B, Fort Worth, TX 76107.
- 2. Humanscale is a registered Texas foreign for-profit corporation. It can be served through its registered agent for service of process, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136

JURISDICTION AND VENUE

- 3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, et seq.
- 4. This Court has jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

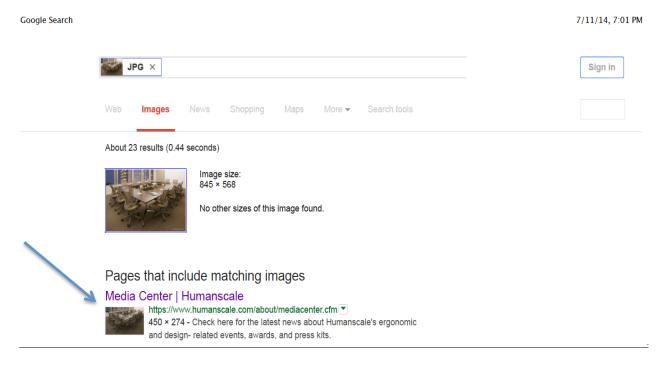
5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(d), and 1400(a).

BACKGROUND

- 6. RBH realleges paragraphs 1 through 5 as if fully set forth herein.
- 7. RBH is the owner of U.S. Copyright No. VAu 1-010-258 ("Copyright") titled Brian Harness Photography Collection 2009 Vol. III. A true and correct copy of the copyright is attached hereto as Exhibit A.
 - 8. The named artist of the Copyright is Brian Harness ("Harness"). *See id*.
- 9. On October 23, 2015, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B.
 - 10. Harness, a professional photographer, is the sole member of RBH.
- 11. On December 3, 2009, Harness entered into a license ("Humanscale License") with Humanscale to purchase limited rights to use a photograph Harness had taken for another client. A true and correct copy of the Humanscale License is attached hereto as Exhibit C.
- 12. The Humanscale License was limited in scope at gave Humanscale the rights to use the licensed photograph only as follows, "License: Use in Humanscale print brochures and PowerPoint presentations..." *See* Exhibit C at 1.
- 13. The photo subject to the Humanscale License was registered as a collection of photographs submitted as part of U.S. Copyright No. VAu 1-010-258.
- 14. The photo that was licensed to Humanscale was registered with U.S. Copyright Office on January 1, 2010. *See* Exhibit A.
- 15. The photo that was subject to the Humanscale License, and included as part of the Copyright, is the following photo:



16. Defendant Humanscale, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photograph on its website: https://www.humanscale.com/about/medicenter.cfm. A true and correct copy of a screenshot of this web page as captured by Google is attached hereto as Exhibit D.



17. The photograph, noted above, remained on Humanscale's website until sometime after July 23, 2013.

18. Because Humanscale had no permission to use the protected photograph on its website, Humanscale is liable for direct copyright infringement.

COUNT 1 – COPYRIGHT INFRINGEMENT

- 19. RBH realleges paragraphs 1 through 18 as if set fully herein.
- 20. RBH alleges Humanscale is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).
 - 21. RBH has been damaged by Humanscale's actions.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

- a. Defendant Humanscale Corp. be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
- b. Defendant Humanscale Corp. be ordered to pay statutory damages pursuant to 17 U.S.C.
 § 504;
- c. Defendant Humanscale Corp. pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- d. Defendant Humanscale Corp. pay pre-judgment and post-judgment interest on any damages awarded; and
- e. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: July 23, 2016

Respectfully submitted,

Glenn E. Janik, Lead Attorney State Bar No. 24036837

Rajkumar Vinnakota

State Bar No. 24042337

JANIK VINNAKOTA LLP

Gateway Tower

8111 LBJ Freeway, Suite 790

Dallas, TX 75251 Tel.: 214.390.9999 Fax: 214.586.0680 gjanik@jvllp.com kvinnakota@jvllp.com

ATTORNEYS FOR PLAINTIFF RBH ENERGY, LLC